HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.2678 OF 2007

Between:

Pathan Rahman Khan

…Petitioner

AND

State Bank of India,
Central Office, Bank Bhavan,
Backbay Reclamation, Fort, Mumbai

...Respondent

: O R D E R :

Counsel for the petitioner : Petitioner in person

June 08, 2007

Per G.S. Singhvi, CJ

The revised petition filed by Shri Pathan Rahman Khan who has appeared in person is taken on record.

In the petition filed by him in April, 2007 and the revised petition

filed on 4-6-2007, the petitioner has prayed for grant of a declaration that violation of the State Bank of India (Supervising Staff) Service Rules (for short, 'the Rules') is illegal and the erring authorities are liable to be punished. He has further prayed for issue of a direction to the respondent to consider the appeal filed by him against the order of punishment.

A perusal of the record shows that while he was holding the post of officer in Junior Management Grade, a departmental enquiry was instituted against the petitioner on

7-6-1982 on the following charges:

> "(a) He had demanded and accepted illegal gratification from the agriculturists, to whom loans were sanctioned/recommended by him;
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> (b) He had rejected the loan applications submitted under the Government sponsored scheme for financing cyclone victims, without assigning any valid reasons, which his (Sri Khan's) demand for illegal gratification was not met. In order to cover the lapse on his (Shri Khan's) part, he had deliberately managed to incorporate a declaration in the original application itself, to the effect, that the applicants did not suffer any loss on account of the cyclone.
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> In the circumstances, it was alleged that he had failed to discharge his duties with integrity, honesty, devotion and deligence and thus, violated Rule No. 32(4) of the State Bank of India (Supervising Staff) Service Rules.
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> (c) He had deliberately allowed an individual, who was appointed on a temporary basis in the subordinate cadre, to continue in employment for a period of more than two hundred and forty days ever a continuous period of twelve months in contravention of the Bank's instructions in that regard.
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> In the circumstances, it was alleged that he had deliberately floated the instructions of the Bank with a

malafide intention of showing undue favours to a third party. He had thus, failed to discharge his duty with utmost devotion and deligence in violation of Rule No.32(4) of the State Bank of India (Supervising Staff) service rules.

(d) On the 26th August, 1980, instead of seeking the assistance of the Branch Manager, Mahaboobnagar for relief arrangements at Maddur Village Branch deliberately sent a telegram from Mahaboobnagar to his Controlling Authority for arranging necessary relief for him and, thus caused closure of Maddur Village Branch on the 27th August, 1980, resulting inconvenience to the Banking Public/customers on that day.

In the circumstances, it was alleged that he had failed to discharge his duties with devotion and deligence and thereby violated Rule No. 32(4) of the State Bank of India (Supervising Staff) Service Rules".

The Inquiring Authority submitted report with the finding that charge Nos. (a), (b) and (c) have not been proved. The Chief General Manager and Disciplinary Authority disagreed with the Inquiring Authority and held that all the charges have been proved and on that premise he passed order dated 07.11.1983 for the petitioner's removal from service. The appeal preferred by the petitioner was dismissed by the Appellate Authority in its meeting held on 27-6-1984. The decision of the Appellate Authority was communicated to the petitioner by the Chief General Manager vide his letter dated 2-7-1984.

The petitioner could have challenged the order of punishment and the appellate order within a reasonable time, but he did not do so and filed this petition after a gap of almost 23 years counted from the date of communication of the result of his appeal.

Shri Rahman Khan who has appeared in person made strenuous efforts to persuade us to entertain the writ petition by arguing

that in exercise of power under Article 226 of the Constitution of India, the High Court can overlook the delay and do justice to him. He submitted that the findings recorded by the Inquiring Authority in respect of charge Nos. (a), (b) and (c) were based on proper appreciation of evidence and the Disciplinary Authority gravely erred by holding all the charges as proved. Shri Rahman Khan also criticised the appellate order by arguing that the same is devoid of reasons and does not satisfy the requirements of a speaking order.

We have given serious thought to the submission of the petitioner, but have not felt persuaded to agree with him.

It is true that Article 226 does not, in terms, prescribe any period of limitation for filing a writ petition, but in last 57 years the superior courts have, among other self-imposed rules of restraint, categorically held that delayed claims will not be entertained under Article 226. The bench-mark for judging and deciding whether the claim made by the particular petitioner is delayed or he is guilty of laches can be found in the judgments of the Supreme Court in **State of M.P vs. Bahilal Bhai**[1], **Trilokchand Motichand vs. H.B. Munshi, Commissioner of Sales Tax, Bombay**[2], **Kamini Kumar Das Choudhury v. State of W.B**[3] and **Mafatlal Industries Limited vs. Union of India**[4].

Since the petitioner has not offered any explanation what to say of satisfactory explanation for the long time gap of 24 years between the date of his removal from service and 23 years counted from the date of rejection of his appeal, we do not find any justification to entertain his prayer and nullify the order of punishment dated 07.11.1983.

For the reasons stated above, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP No.3429 of

2007 filed by the petitioner for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

June 08, 2007
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[1] AIR 1964 SC 1006
[2] AIR 1970 SC 898
[3] AIR 1972 sc 2060
[4] 1996 JT (11) SC 283